

REMARKS

This paper is submitted in response to the pending Office Action mailed on March 24, 2006. Because this Response is submitted with a certificate of mailing in compliance with 37 C.F.R. §1.8 on or before the shortened period for reply set to expire on **June 26, 2006**, this Response is timely filed.

I. STATUS OF THE CLAIMS

This divisional application was originally filed with, and currently contains, claims 1 to 6. By this Response, claims 1 to 6 remain pending and at issue. No new claims have been added, and no amendments to claims 1 to 6 are presented herein.

While Applicants believe that no additional fees are due in connection with this application, Applicants direct the Office to charge **Deposit Account No. 02-1818** for any fees deemed owed during the pendency of this application, excluding the issue fee.

II. CLAIM REJECTIONS

The Office Action rejects claims 1 to 6 under 35 U.S.C. §103 as obvious over U.S. Published Patent Application No. 2001-0044731 to Coffman et al. ("*Coffman*") in view of U.S. Patent No. 6,988,075 to Hacker ("*Hacker*").

Applicants respectfully traverse the rejection of claims 1 to 6 as obvious over *Coffman* in view of *Hacker*. In particular, neither of these references discloses, teaches, or even suggests, a system or method that includes: (i) a medication container that contains a prescribed medication and a first label, (ii) a tag adapted to be worn by a patient and includes a second label containing patient data, and (iii) a handheld computing device that performs a matching check and confirms the match between the prescribed medication data and the patient data. Thus, these references, either alone or in combination, do not provide a proper basis for establishing a *prima facie* case of obviousness.

Coffman simply discloses a computer system 60 or control system 40 that communicates and validates medication information in cooperating with a medical transaction carrier (MTC) 110. The MTC 110 can be a personal digital assistant, i.e., a handheld computing device, smart card, etc. As acknowledged in the pending action, *Coffman* does not disclose a tag adapted to be worn by a patient that includes patient data. Furthermore, *Coffman* does not disclose or even suggest that the MTC

110, or the handheld computing device, performs a matching check and confirms the match between the prescribed medication data and the patient data. *See Coffman* at paragraphs [0107] and [0108]. In fact, it is clear from the relied upon passages of *Coffman* that the computer system 60 or control system 40 performs the matching check **and not** the MTC 110. Thus, the system of *Coffman* is configured and operates in a manner completely different than the claimed system and method, and requires a centralized infrastructure to provide the matching checks, etc. recited by the claims.

Hacker does not disclose or suggest all of the elements missing and lacking from *Coffman*. *Hacker* simply discloses an electronic medical record system and service that centrally stores patient records on a database for patient-controlled remote access. The patient-controlled remote access of the centrally stored records may be initiated via authorization controlled by a patient bracelet. While *Hacker* arguably discloses a tag, e.g., the patient bracelet, the tag does not, on any level, contain patient information as recited by the claims at issue. Rather, the tag simply provides the authorization necessary to **access** the patient information centrally stored on the database. Moreover, any checks or validation performed by the system of *Hacker* occur remotely at the server and not at handheld computing device as recited by the claims at issue. For example, *Hacker* clearly states at col. 11, line 56 to col. 12, line 2 that:

[t]o prevent mistakes, all of this input information is checked for correctness by **software on the server** or by an online or offline hospital system **using electronic patient record information obtained from the server upon patient authorization**. When a medical provider, such as a hospital, is authorized to obtain a patient's electronic medical record for offline use, a prerequisite for such authorization and use can be that the record that is updated offline by the hospital be regularly updated or synced online with the server. An additional prerequisite can be that the electronic patient medical record information obtained from the server be removed or expunged from the medical providers offline usage system when treatment is completed. [Emphasis added.]

Thus, it is clear from *Hacker* that the *server performs the checks and not* the patient bracelet or a handheld computing device. Moreover, it is clear that the disclosed tag simply provides a means for authorizing access to stored patient data, and does not store or provide the data itself. Thus, the system of *Hacker* is configured and operates in a manner completely different than the claimed system and method, and

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requires a centralized infrastructure to provide the matching checks, etc. recited by the claims.

For all of these reasons, Applicants submit that the references relied upon in this pending action do not disclose, teach or suggest each and every element set forth in the claims. Moreover, the cited references do not provide the simplified system necessary to perform matching checks, and instead requires a complex, centralized system. Because of these missing elements and teaching, these references, no matter how they are combined or modified cannot provide the benefits realized by the system recited in claims 1 to 6. Thus, these claims 1 to 6 are not rendered obvious and/or anticipated by *Coffman* or *Hacker*.

III. CONCLUSION

For the foregoing reasons, Applicant respectfully requests withdrawal of the pending rejections and submits that the above-identified patent application is now in condition for allowance and earnestly solicits reconsideration of same. The Examiner is respectfully requested to telephone the undersigned if he can assist in any way in expediting prosecution of this application.

Respectfully submitted ,

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